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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,563	03/22/2001	Leo Parker	2378/104	4515
2101	7590	04/07/2004	EXAMINER	
<b>BROMBERG &amp; SUNSTEIN LLP</b> 125 SUMMER STREET BOSTON, MA 02110-1618				GREENE, DANIEL L
		ART UNIT		PAPER NUMBER
		3621		

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/814,563	PARKER ET AL.
	Examiner	Art Unit
	Daniel L. Greene	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 February 2004.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-26 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 2/17/04 have been fully considered but they are not persuasive. The Applicant states that the Schuster reference does not teach the use of a wireless device communicating with a wireless network facility. The Examiner disagrees because Schuster discloses that the PID may include other functionality such as wireless phone or two-way radio functionality. Col. 6, lines 4-5. Further, Conmy teaches about the use of a dial-up link. Col. 3, line 23, which provides the motivation/bridge to Schuster. A reference is to be considered not only for what it expressly states, but also for what it would reasonably have suggested to one of ordinary skill in the art. *In re DeLisle*, 160 USPQ 806 (CCPA 1969). It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The Examiner submits that the type of system to communicate between devices and system does not render an application patentable when the functions and outcomes of the interactions are the same. The type of communications link whether it is hard-line (telephone), wireless and or satellite, does not render an application unique, original or advances the technology of the art. Therefore, since Schuster and Conmy accomplish the same outcome as the Application proposes, the prior rejection remains viable.

***Response to Amendment***

The Applicant amended claims 1, 14, and 22 by adding "over a wireless network facility". The examiner takes Official Notice that a wireless phone requires by definition a wireless network facility to operate within. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the step of the wireless phone operates within a wireless network that has wireless network facilities. These requirements are well known to those skilled in the art. Also, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to have a wireless network with a wireless device since it is known in the art that a wireless device does not operate without a wireless network.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conmy et al. U.S. Patent 6,101,480 [Conmy], and further in view of Schuster et al. U.S. Patent 6,577,622 B1 [Schuster].**

As per claims 1, 14, and 22:

Conmy discloses the claimed invention except for the primary user using a wireless scheduling device. However, Conmy does disclose the concept of mobile and disconnected users being provided the same C&S (calendar and scheduling) functionality that is available to them when they are connected to the LAN. Col. 11, lines 3-15. Schuster teaches that it is known in the art to provide a PID (Protocol identifier) interface such as a PDA (Personal Digital Assistant). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the C&S system of Conmy with the PID interface of Schuster, in order to permit the user to be mobile and use his PDA for scheduling meetings and being kept up to date on the meetings he is scheduled to attend.

The examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken, as a whole would suggest to one of ordinary skill in the art. *In re Simon*, 174 USPQ 114 (CCPA 1972); *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969). Schuster is a system that is scheduling and bringing together participants in a conference call/meeting. Both Conmy and Schuster deal with bringing participants

together at a common time and place. Conmy's place is physical while Schuster's place is primarily electronic. The end results are both effectively the same. That is a multiple participant having the ability to communicate and interact with each other within the same time period.

5           communicating an availability request to a server over a wireless network facility using the scheduling device, the server having access to calendar data for each attendee in the set of attendees; Conmy, Col. 4, lines 12-40.

              in response to the availability request, conducting a search of the calendar data of each attendee of the set to produce an availability data set; Conmy, Col. 4, lines 55-67.

              transmitting the availability data set over a wireless network facility to the scheduling device. Conmy, Col. 5, lines 3-10.

Conmy discloses the claimed invention except for the use of a wireless device. However, Conmy does teach about utilizing wireless devices as detailed in the previous section. Schuster teaches that it is known in the art to use a wireless device for C&S. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the C&S system of Conmy with the wireless capabilities of Schuster in order to provide the user with greater flexibility in the use of their time.

As per the previous section on the **Claim Amendment**, the limitation of the use of a wireless network facility is addressed and does not render the claim patentable.

As per claims 2, 15, and 23:

Conmy and Schuster further disclose:

displaying data derived from the availability data set on the wireless scheduling device. Conmy, Fig. 5-9.

As per claims 3, 16, and 24:

Conmy further disclose:

wherein the data derived from the availability data set is displayed as free time and busy time. Fig. 5-9.

As per claims 4 and 17:

Conmy further disclose:

wherein the availability request is communicated to the server via a network. Col. 4, lines 14-30.

As per claims 5 and 18:

Conmy further disclose:

wherein the network includes the Internet. Col. 4, lines 14-30.

As per claims 6, 19, and 25:

Conmy further disclose:

wherein the availability request includes an identifier for each attendee and a time period for which availability should be determined. Col. 3, lines 50-55, lines 55-64.

As per claims 7, 20, and 26:

Conmy further disclose:

wherein the identifier for each attendee is an email address. Col. 3, lines 50-55.

As per claims 8 and 21:

Conmy further disclose:

wherein the calendar data for each attendee is stored in an availability database in communication with the server. Col. 4, lines 1-10.

As per claim 9:

Conmy further disclose:

scheduling an event based on the availability data set. Fig. 3-4.

As per claim 10:

Conmy discloses the claimed invention except for the wherein the event is scheduled using the wireless scheduling device. . Schuster teaches that it is known in the art to provide wherein the event is scheduled using the wireless scheduling device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the C&S system of Conmy with the wherein the event is scheduled using the wireless scheduling device of Schuster, in order to provide the user with greater flexibility and availability.

As per claim 11:

Conmy further disclose:

updating the calendar data for each attendee with the scheduled event. Col. 5, lines 52-62.

As per claim 12:

Conmy further disclose:

requesting access to the calendar data for each attendee in the set of attendees. Col. 5, lines 35-51.

As per claim 13:

Conmy further disclose:

wherein access to calendar data is requested via email over the Internet. Col. 9, lines 10-15.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3/31/04

DLG

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